THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 4716 of 1997

O r d e r:

By this writ petition, the petitioner, who is an employee of the respondent-APSRTC assails the action of respondent No.3 in imposing punishment of two annual increments with cumulative effect, as illegal and arbitrary.

The learned counsel for the petitioner submits that the petitioner joined the service of the respondents-APSRTC as Conductor in 1979. In the very same year, on the ground that he committed cash and ticket irregularity, respondent No.3, imposed punishment of deferment of one increment for a period of two months without cumulative effect, and transferred him from Kamareddy Depot to Medak Depot. The petitioner was re-transferred to Kamareddy Depot from Medak Depot in 1982, and for the very same cash and ticket irregularity, respondent No.3 imposed punishment of deferment of one annual increment for a period of two years with cumulative effect. He submits that the petitioner on coming to know about imposition of punishment in 1985, made several representations followed by legal notice to respondent No.3 to undo the injustice done to him, but in vain. The learned counsel for the petitioner submits that no enquiry whatsoever was conducted by respondent No.3 nor any opportunity of hearing was afforded to the petitioner before imposing the punishment of deferment of one annual increment for a period of two years with cumulative effect, and in fact, respondent No.3 without communicating the order of punishment, has implemented the same against the petitioner, which is illegal and arbitrary. He submitted that as the punishment of deferment of annual increment with cumulative effect, was imposed against the petitioner, illegally, and it being a continuing wrong affecting the pay of the petitioner through out his service, it can be assailed any time, and no limitation would apply, and in support of this submission, he placed reliance on the judgment of the apex Court in **M.R. Gupta v. Union of India**. He thus prayed that the writ petition be allowed.

The respondents-APSRTC filed counter denying the allegations made by the petitioner in the affidavit filed in support of the writ petition. The learned Standing Counsel reiterating the averments of the counter, submitted that petitioner committed two different cash and ticket irregularities - for the first cash and ticket irregularity committed in February, 1979, he was imposed punishment of deferment of annual increment for a period of two months without cumulative effect vide order dated 23.12.1981 and for the second cash and ticket irregularity committed in June, 1979, he was placed under suspension, and ultimately punishment of deferment of one annual increment for a period of two years with cumulative effect, was imposed, vide order dated 11.01.1982. He denied that no enquiry was conducted before imposing

the punishment, and contended that at this stage it is not possible to conduct enquiry, particularly when the record relating to the ticket and cash irregularities has been destroyed with the sanction of the Divisional Manager, Sangareddy. At any rate, he submits that the writ petition filed by the petitioner assailing the punishment, 15 years after its imposition and implementation, cannot be entertained, and prayed that the writ petition be dismissed.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent-APSRTC.

Though the petitioner contends that for the very same cash and ticket irregularity, respondent No.3 has imposed two punishments, the same is disputed by the respondents. It is the case of the respondents that the petitioner was involved in two different cash and ticket irregularities. For the first cash and ticket irregularity committed by him in February, 1979, punishment of deferment of annual increment for a period of two months without cumulative effect was imposed, and for the second cash and ticket irregularity committed by him in June, 1979, punishment of deferment of annual increment for a period of two years with cumulative effect, was imposed. Since the petitioner is said to have committed two different cash and ticket irregularities, no exception can be taken to the action of the respondents in imposing two different punishments, and the petitioner cannot be allowed to contend that he was punished two times for the same misconduct.

Though the petitioner contends that no enquiry whatsoever was conducted before imposing the punishment, the same is denied by the respondent. The punishment was imposed against the petitioner in 1981 and 1982, and it was implemented immediately. Since the implementation of the punishment, had the effect of diminution of his monthly salary immediately, the petitioner cannot be allowed to contend that he came to know about the diminution in his salary by reason of the implementation of punishment only in 1985. Though the petitioner states that in 1985 immediately upon coming to know that the punishment imposed on him was implemented, he made several representations to the respondents to undo the injustice to him, the petitioner except making bald statements in the writ petition of his having made representations, had not filed any material to show that he had made any such representations.

Imposition of punishment on the employees is in realm of disciplinary authority, and it is not the normal jurisdiction of the superior courts to interfere with the quantum of sentence unless it is wholly disproportionate to the misconduct proved (See **Regional Manager, Rajasthan SRTC v. Sohan Lal**). In **Divisional Controller, KSRTC (NWKRTC) v. A.T. Mane**, the apex Court held that once a domestic tribunal based on evidence comes to a particular conclusion, normally it is not open to the appellate tribunals and courts to substitute their subjective opinion in the place of the one arrived at by the domestic tribunal. In **Karnataka Bank Ltd. v. A.L. Mohan Rao**, the apex Court held that it is not for the courts to interfere in cases of gross misconduct of the nature with the decision of the disciplinary authority so long as the inquiry has been fair and proper and misconduct proved, and that in such matters, it is for the disciplinary authority to decide what is the fit punishment.

In the instant case, the two punishments having been imposed against the petitioner by the disciplinary authority for cash and ticket irregularities, which is a grave and serious misconduct, for it causes financial loss to the respondents-APSRTC, no interference is called for therewith, and more so at this distance of time.

There can be no doubt that no limitation can be prescribed for assailing the action of the administrative authority for not re-fixing the pay of an employee for it affects the pay of the employee through out his career. In the instant case, the petitioner is not claiming re-fixation of his salary, but is seeking to assail the punishment imposed on him by the disciplinary authority, and by reason of its implementation, there is diminution in his salary, which he wants to make good. The case of the petitioner not being one of re-fixation of his salary, but one challenging the imposition of punishment, imposed about 15 years back, reliance placed him on the judgment of the apex Court in **M.R. Gupta v. Union of India** in support of his contention that there can be no limitation prescribed for assailing an order, which affects the salary of an employee through out his service, is of no avail to him, for the reason that the grievance of the petitioner in the said case was with regard to re-fixation of his pay, which on request was rejected by the official respondents on the ground that the request was belated.

For the foregoing reasons, there is no merit in the writ petition, and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 15th February, 2006.

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